

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:12-CV-00813-FL

DEMORIS M. JOHNSON,)	
)	
Plaintiff,)	FIRST AMENDMENT
)	TO COMPLAINT
v.)	
)	
NORTH CAROLINA DEPARTMENT)	(Jury Trial Requested)
OF HEALTH AND HUMAN SERVICES,)	
)	
Defendant.)	

NOW COMES Plaintiff Demoris M. Johnson and amends her pleading as a matter of right pursuant to Fed. R. Civ. P. 15(a),¹ by adding the following paragraphs to her original Complaint:

3a. Defendant actively participated in the EEOC process, and apparently never requested that the case be referred to the Office of Administrative Hearings.

3b. Plaintiff filed a Petition in the Office of Administrative Hearings on May 15, 2013, on the grounds that Defendant failed to reasonably accommodate her, in contravention of N.C. Gen. Stat. § 168-A, the North Carolina Persons with Disabilities Act, and that her dismissal was a discriminatory and retaliatory act in contravention of the same.

7a. Upon information and belief, Defendant has waived its sovereign immunity by its purchase of liability insurance.

¹ Fed. R. Civ. P. 15(a)(1)(A) states: “A party may amend its pleadings once as a matter of course: ... before being served with a responsive pleading; ...” “A motion to dismiss is not a responsive pleading for the purposes of Rule 15(a).” Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1068 n. 1 (4th Cir. 1993). Defendant has filed a motion to dismiss but not an answer.

Respectfully submitted, this the 27th day of May, 2013.

/s/ David G. Schiller

David G. Schiller (N.C. Bar No. 26713)
SCHILLER & SCHILLER, PLLC
Professional Park at Pleasant Valley
5540 Munford Road, Suite 101
Raleigh, NC 27612
Telephone: (919) 789-4677
Facsimile: (919) 789-4469
Email: dgschiller@yahoo.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing **PLAINTIFF'S FIRST AMENDMENT TO COMPLAINT** on the following counsel via the CM/ECF system:

Ms. Olga Vysotskaya
N.C. Department of Justice
Post Office Box 629
Raleigh, NC 27602

This the 27th day of May, 2013.

/s/ David G. Schiller
David G. Schiller